

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE

WALLY MENDEZ RIVERA

SS #

Debtor

BANKRUPTCY 17-01510 MCF

CHAPTER 7

Denial Waiver of Filing Fees doc #7

**MOTION TO RECONSIDER & VACATE
DENIAL of WAIVER of FFES**

TO THE HONORABLE COURT:

COMES NOW debtor through his counsel and respectfully requests the Court to reconsider and set aside doc #7 as follows:

1. Debtor filed his chapter 7 bankruptcy petition on March 3, 2017 at which time he requested that his filing fees be waived at doc #2.
2. On 3/22/2017 the request was denied by this Court although allowed to pay the filing fees in installments at doc #7.
3. Debtor is below 150% of HHS Monthly Poverty Guideline for a family of 1 by an appreciable amount of \$478.56, the Poverty Guideline being \$1,485 at this moment. The debtor's average monthly net income is \$1,006.44 and only at this average amount [CMI] because of a slight increase in work motivated by the holiday surge in sales at his place of employment.
4. In debtor's Motion for Waiver of the Filing Fee he indicates under penalty of perjury, that what he has been able to pay his attorney has been in partial and very low amounts, and we quote ¶5:

"I have paid my attorney through very small sporadic payments b/c my Employer has continued during the last year to reduce my work hours making it very difficult to pay my attorney anymore & my creditors are harassing me even more while at work. I cannot even

attempt to find additional employment to supplement my current work b/c the hours are irregular & we are not informed of the work shift until the days before."

5. At "Special Circumstances" debtor states and we quote:

"I have been making small partial payments of A/Fees for over a year. My hours at work have continued to decrease contributing to inability to pay further A/F &/or FF at this time."

6. Debtor's estimated average monthly expenses under the Means Test & Schedule J pursuant to ¶6 of doc #1 is \$1,425 requiring debtor to live very frugally and scarcely able to pay gasoline to and from work many times.
7. In the Means Test, debtor shows a monthly deficit of -\$713.56, accruing an annual deficit of \$8,562.72.
8. Debtor was interviewed in the undersigned attorney's office on March 1, 2016 and commenced making partial payments on April 21, 2016 having paid in total \$1,035 or an average of \$86.25 monthly since he was interviewed and decided that he needed a bankruptcy. Rarely can these debtors continue to pay the balance owed to their attorneys after the filing of their petitions. They just cannot make ends meet any longer in the current state of the economy.
9. This debtor, as we are experiencing more and more in Puerto Rico, unfortunately is officially and un-mistakenly POOR and deserving of a waiver of fees.
10. Bankruptcy attorneys are finding more and more increased need for waivers or payment of filing fees in installments which in our almost 40 years of practice had never been utilized by the undersigned until recent times. We predict that the need of recurring to the Poverty Guidelines to seek a waiver of fees is unfortunately a reality much more manifest in Puerto Rico because of the high cost of living for goods and services and low wages and high unemployment.

WHEREFORE, debtor respectfully prays for the reconsideration and setting aside of the denial to waive the filing fee in this case; in the alternative, leave is sought for payment at \$75 monthly within 4 months, or 120 days from this Court's decision; any other remedy that this Court deems proper and just.

NOTICE

Within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (I) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

I HEREBY CERTIFY, that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF Filing System which will send a notification, upon information and belief, of such filing to the Chapter 7 Trustee and to all subscribed users as follows:

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In Caguas, Puerto Rico, this 22nd day of March, 2017

/s/ *LA Morales*

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